

1 2 3 4 5 6

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

9

IDA ROVERS,  
Plaintiff,

O R D E R  
Civil No. 05-6122-AA

11

vs.

13

OREGON DEPARTMENT OF JUSTICE  
DIVISION OF CHILD SUPPORT,  
ET AL.,

14

Defendants.

15

AIKEN, Judge:

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Plaintiff filed this complaint pursuant to the federal Fair Credit Reporting Act (FCRA) against defendant Oregon Department of Justice (Oregon DOJ) as well as against several other defendants not at issue here. See 15 U.S.C. § 1681s-2(a)(1)(a). Plaintiff alleges that the Oregon DOJ reported to the credit reporting agency Trans Union that plaintiff's account with defendant, as of June 2004, had the status of a collection account. Complaint, ¶ 61. Plaintiff alleges that she has never been late on her payments to the Oregon DOJ and has paid her account in full. *Id.* Plaintiff alleges that Oregon DOJ's actions violate the FCRA and that, as a result, she sustained damages in the form of denied credit, increased cost of borrowing

1 money, damaged credit scoring, higher interest rates, emotional  
2 distress, and attorney fees. Id. at ¶¶ 76-77.

3 The Oregon DOJ moves to dismiss plaintiff's complaint  
4 asserting that this court lacks subject matter jurisdiction over  
5 the claim. I agree and grant defendant's motion to dismiss.  
6 Defendant filed its motion to dismiss on June 22, 2005.  
7 Plaintiff has not filed any opposition to this motion and  
8 therefore the court will assume that defendant's motion is  
9 unopposed.

10 Pursuant to the Eleventh Amendment of the United States  
11 Constitution, states retain sovereign immunity and cannot be sued  
12 by citizens under federal law unless the state consents to the  
13 suit or Congress has abrogated the states' sovereign immunity.  
14 Blatchford v. Native Village of Noatak, 501 U.S. 775, 779 (1991).  
15 Further, Congress can abrogate a state's sovereign immunity only  
16 with a "clear legislative statement." Id. at 786. I find no  
17 "clear legislative statement" here. See Richmond v. TRW Info  
18 Servs. Div., 1997 WL 1037886 (S.D. Cal. 1997) (no indication that  
19 "Congress sought to waive the 11<sup>th</sup> Amendment regarding plaintiff's  
20 claims under the FCRA against the State of California and its  
21 Franchise Tax Board). I find no evidence that the FCRA can  
22 abrogate Oregon's sovereign immunity, and therefore plaintiff's  
23 claims pursuant to the FCRA, against this defendant, fail as a  
24 matter of law. Defendant's motion to dismiss (doc. 40)

25       ///

26       ///

27       ///

28       ///

1 is granted.

2 IT IS SO ORDERED.

3 Dated this 13 day of September 2005.

6  
7   
8 Ann Aiken  
9 United States District Judge